

REMARKS/ARGUMENTS

INTERVIEW

Applicants appreciate the courtesy extended by the Examiner in a telephone interview with the undersigned attorney on November 13, 2008. During that interview, certain amendments were discussed for putting the application into better condition for allowance. It is believed that the above amendments do render the application to be now allowable for the reasons that follow.

CLAIM REJECTIONS UNDER 35 USC 112, first paragraph

Claim 1 has been amended to remove references to "white balance" and "color balance" as was intended in the previous amendment. The rejection is thus overcome.

CLAIM REJECTIONS UNDER 35 USC 103

Claims 1, 41, 81, 83, 85 and 99 are rejected under 35 USC 103(a) as being unpatentable over US published application 20010005222 to Yamaguchi ('222 publication) in view of US patent no. 6792135 to Toyama ('135 patent). Each of claims 1, 41, 81, 83, 85 and 99, as now amended, is allowable because no combination of the '222 publication to Yamaguchi and the '135 patent to Toyama teaches or suggests all of the recited limitations.

Specifically, Applicants' amended claim 1 now requires calculating a degree to which exposure of the face within a foreground region of a digital image differs from a desired exposure of the face within the image, including determining that the face lacks the desired exposure as being shadowed or shot with back light or otherwise insufficiently illuminated during acquisition,... and based on the identifying and the degree as a result of the calculating, automatically generating values of pixels of one or more new still images based on the selected portion in a manner which always includes the face within the one or more new still images which differ from the original digitally-acquired still image by including at least one group of pixels modified at least in exposure of the face

including applying a digital fill flash to add light and to boost the apparent exposure of the face in the foreground, as compared with the one or more groups of pixels identified in the original digitally-acquired still image. This advantageous feature is neither taught nor suggested by any combination of Yamaguchi and Toyama. Instead, Yamaguchi teaches only to modify skin pigmentation. Therefore, claim 1 is now allowable as amended.

Amended claims 41, 81, 83, 85 and 99 are allowable for substantially the same reasons as amended claim 1 (claims 85 and 99 adding the option of modification of spatial parameters).

Claims 23, 63, 82, 84, 92, 106 and 112 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi in view of Toyama, in further view of US patent US20040095359 to Simon et al. Each of claims 23, 63, 82, 84, 92, 106 and 112, as now amended, is allowable for the reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of the Yamaguchi, Toyama and Simon et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 2-5, 42-45, 86-89 and 100-103 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama and US4970663 to Bedell et al. Each of claims 2-5, 42-45, 86-89 and 100-103, as now amended, is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Bedell et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 6 and 46 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Bedell et al., and Krishnamurthy et al. Each of claims 6 and 46 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Bedell et al. and

Krishnamurthy et al. teaches or suggests all of the recited limitations of any of these claims.

Claim 90 is rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Bedell et al., and Fukui et al. Claim 90 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Bedell et al. and Fukui et al. teaches or suggests all of the recited limitations of claim 90.

Claim 104 is rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, and Fukui et al. Claim 104 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Fukui teaches or suggests all of the recited limitations of claim 104.

Claims 7, 11, 47 and 51 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Bedell et al., Krishnamurthy et al., and Fukui et al. Each of claims 7, 11, 47 and 51 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Bedell et al. and Krishnamurthy et al..and Fukui et al. teaches or suggests all of the recited limitations of any of these claims.

Claim 105 is rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, and Yamakazi et al. Claim 105 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Yamakazi et al. teaches or suggests all of the recited limitations of claim 105.

Claim 91 is rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Bedell et al. and Yamakazi et al. Claim 91 is allowable for the same reasons

set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama, Bedell et al. and Yamakazi et al. teaches or suggests all of the recited limitations of claim 91.

Claims 8, 9, 14-15, 48, 49, 54 and 55 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Bedell et al., Krishnamurthy et al., and Yamakazi et al. Each of claims 8, 9, 14-15, 48, 49, 54 and 55 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Bedell et al. and Krishnamurthy et al. and Yamakazi et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 10, 12, 13, 50, 52 and 53 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Bedell et al., Krishnamurthy et al., and Yamakazi et al. and Fukui et al. Each of claims 8, 9, 14-15, 48, 49, 54 and 55 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Bedell et al. and Krishnamurthy et al. and Yamakazi et al. and Fukui et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 32, 33, 72, 73, 98, 110 and 111 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al. and Yamakazi et al. Each of claims 32, 33, 72, 73, 98, 110 and 111 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Simon et al. and Yamakazi et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 29, 69, 96 and 107 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al. and Fukui et al. Each of claims 29, 69, 96 and 107 is allowable for the same reasons set forth above regarding amended claims 1, 41,

81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Simon et al. and Fukui et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 30-31, 70-71, 97 and 108-109 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al. and Fukui et al. and Yamakazi et al. Each of claims 30-31, 70-71, 97 and 108-109 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Simon et al. and Fukui et al., and Yamakazi et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 24, 64 and 93 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al. and Krishnamurthy et al. Each of claims 24, 64 and 93 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Simon et al. and Krishnamurthy et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 25, 65 and 94 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al., Krishnamurthy et al. and Fukui et al. Each of claims 25, 65 and 94 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Simon et al., Krishnamurthy et al. and Fukui et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 26, 27, 66, 67 and 95 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al., Krishnamurthy et al., and Yamakazi et al. Each of claims 26, 27, 66, 67 and 95 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of

Yamaguchi, Toyama and Simon et al., Krishnamurthy et al. and Yamakazi et al. teaches or suggests all of the recited limitations of any of these claims.

Claims 28 and 68 are rejected under 35 USC 103(a) as being unpatentable over Yamaguchi, Toyama, Simon et al., Krishnamurthy et al., and Yamakazi et al. and Fukui et al. Each of claims 28 and 68 is allowable for the same reasons set forth above regarding amended claims 1, 41, 81, 83, 85 and 99, and because no combination of Yamaguchi, Toyama and Simon et al., Krishnamurthy et al., and Yamakazi et al. teaches or suggests all of the recited limitations of any of these claims.

For the reasons set forth above, it is submitted that the application is now in condition for allowance. The Examiner's reconsideration and further examination are respectfully requested.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-4399.

Respectfully submitted,

Dated: November 20, 2008

/Andrew Vernon Smith/
By _____
Andrew V. Smith
Reg. No. 43,132
Attorney for Applicant(s)